

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA  
SAN FRANCISCO DIVISION

STRIKE 3 HOLDINGS, LLC,

Plaintiff,

vs.

JOHN DOE subscriber assigned IP address  
73.162.81.234,

Defendant.

Case Number: 5:21-cv-00760-VKD

Honorable Virginia K. DeMarchi

**[PROPOSED] DEFAULT JUDGMENT  
AND PERMANENT INJUNCTION  
AGAINST DEFENDANT**

THIS CAUSE came before the Court on the Motion for Default Judgment Against Emmanuel Andaya (“Motion”) filed by Plaintiff Strike 3 Holdings, LLC (“Plaintiff”). Having considered the Motion, being otherwise duly advised in the premises, and good cause appearing, the Court hereby

**FINDS:**

1       1. The address of Plaintiff is:

2              Strike 3 Holdings, LLC  
3              c/o Lincoln D. Bandlow, Esq.  
4              Law Offices of Lincoln Bandlow, PC  
5              1801 Century Park East, Suite 2400  
6              Los Angeles, CA 90067  
7              E-mail: [lincoln@bandlowlaw.com](mailto:lincoln@bandlowlaw.com)

8       2. The name and address of Defendant is:

9              Emmanuel Andaya  
10             1751 Marco Polo Way Apt 8  
11             Burlingame, California94010

12       3. This Court has jurisdiction over the subject matter of this case and the parties.

13       4. Venue is proper in this District.

14       5. The Complaint states claims for direct copyright infringement, in violation of  
15       17 U.S.C. § 101 upon which relief may be granted against Defendant.

16       6. Defendant has failed to plead or otherwise defend against Plaintiff's Complaint,  
17       Dkt. 1, in this action.

18       7. Default was entered as to Defendant on May 11, 2021.

19       8. Defendant is not a minor, incompetent person or in active military service.

20       9. By reason of default, Defendant has admitted the truth of the allegations in  
21       Plaintiff's Complaint.

22       10. Under Count I of the Complaint, Defendant is hereby found liable to Plaintiff for  
23       willfully committing direct copyright infringement.

24       11. Defendant will continue to cause Plaintiff irreparable injury. Specifically, there  
25       is an existing threat of continued violations of Plaintiff's exclusive rights to reproduce,  
26       distribute, perform and display the 35 copyrighted works listed on Exhibit A attached hereto  
27       (the "Works") through Defendant's use of the BitTorrent protocol to upload and download the  
28       Works between and among peer users without authorization from Plaintiff.

29       12. There will be no injury to Defendant caused by entry of a permanent injunction  
30       requiring Defendant to cease infringing Plaintiff's Works.

1       13. Entry of a permanent injunction against Defendant is in the public interest  
2 because it “preserv[es] the integrity of copyright laws which encourage individual effort and  
3 creativity by granting valuable enforceable rights.” *DSC Communications Corp. v. DGI*  
4 *Technologies*, 898 F. Supp.1183, 1196 (N.D. Tex. 1995).

5       14. In accordance with Rule 65(d), Federal Rules of Civil Procedure, this Default  
6 Judgment shall be binding upon Defendant and all other persons in active concert or  
7 participation with Defendant who receives actual notice of this Default Judgment.

8       15. Plaintiff has submitted a Declaration demonstrating that Plaintiff expended a  
9 total of \$658.97 in costs, which amount this Court finds reasonable.

10      Based on the foregoing findings, it is:

11      **ORDERED AND ADJUDGED** that Defendant Emmanuel Andaya:

12      (a) shall pay to Plaintiff the sum of \$26,250.00 in statutory damages, as authorized under  
13 17 U.S.C. § 504(c)(1), and \$658.97 for costs, as authorized under 17 U.S.C. § 505, making a  
14 total of \$26,908.97, **for which let execution issue forthwith**;

15      (b) shall pay to Plaintiff post-judgment interest at the current legal rate allowed and  
16 accruing under 28 U.S.C. § 1961 as of the date of this Default Judgment until the date of its  
17 satisfaction;

18      (c) be and hereby is enjoined from directly, contributorily or indirectly infringing  
19 Plaintiff’s rights under federal or state law in the Works, including, without limitation, by using  
20 the internet, BitTorrent or any other online media distribution system to reproduce (e.g.,  
21 download) and/or distribute the Works, or to make the Works available for distribution to the  
22 public, except pursuant to a lawful license or with the express authority of Plaintiff.

23      (d) be and hereby is ordered to destroy all copies of Plaintiff’s works that the Defendant  
24 Emmanuel Andaya has downloaded onto any computer hard drive or server without Plaintiff’s  
25 authorization and shall destroy all copies of the Works transferred onto any physical medium or  
26 device in Defendant’s possession, custody, or control.

27      (e) The Court shall retain jurisdiction over this action for six months or until the  
28 judgment is satisfied to entertain such further proceedings supplementary and to enter such

1 further orders as may be necessary or appropriate to implement and enforce the provisions of  
2 this Default Judgment.

3 **DONE AND ORDERED** this \_\_\_\_ day of \_\_\_\_\_, 2021.  
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5 By: \_\_\_\_\_  
6 United States Magistrate Judge  
Honorable Virginia K. DeMarchi  
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